2020 JUVENILE JUSTICE VIRTUAL CONFERENCE

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JUVENILE COURT RESTITUTION: LEGAL CONSIDERATIONS FOR RESTITUTION ORDERS & ADMINISTRATIVE PROCESS UPON LOSS OF JURISDICTION

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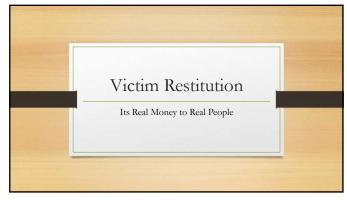
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What is Restitution? Purpose (help make victim whole; not to punish) Economic Loss (basis for full or partial restitution award) Non-Economic Loss (not recoverable)

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Verified statement of loss A.R.S. §8-344(B) Verified statement of loss A.R.S. §8-344(B) (versus contested hearing in adult court A.R.S. §13-804(G)) Past and future medical care costs, lost earning capacity, lost wages, loss of property Reasonable damages for injury to or loss of property Actual medical expenses Costs incurred as a direct result of crime

Non-Economic Loss (Not Recoverable) Pain and suffering A.R.S. §8-344(B) Punitive damages Consequential damages

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Collecting Restitution Court retains jurisdiction until juvenile turns age 18 for purposes of modifying the manner of payment. A.R.S. §8-344(D) If juvenile on probation, contact probation officer to assist with collection Restitution lien on property A.R.S. §8-345(C) At age eighteen, award converts to a juvenile restitution order, non-dischargeable in bankruptey and interest accrues at ten percent (10%) A.R.S. §8-344(D) & (f) Juvenile Restitution Order enforceable as any civil judgment; juvenile court no longer has jurisdiction but civil enforcement tools available Creative options (insurance, writ of execution, foreclosure, vehicle repo)

Enforcement options

- If on probation, remedy... contact probation officer to request relief
- Off probation? Request assistance from juvenile court or request a hearing before juvenile turns age eighteen. A.R.S. §8-344(D) (court retains jurisdiction for purpose of modifying manner of payments) (compare to adult criminal court (A.R.S. §§13-804(M), (N), (O), 13-810, -812)
- Non-payment by parents before juvenile turns eighteen may lead to OSC for non-payment or review hearing by court
- After age eighteen, negotiate a payment plan after juvenile restitution order entered (remember to issue satisfaction of judgment

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Enforcement options (continued)

- Juvenile collection efforts via civil enforcement versus adult criminal court collection options (garnishment, petition for OSC re: contempt, etc. A.R.S. §13-810, -812, et. seq.)
- · Civil debtor's examination
- Civil writ of garnishment of earnings/non-earnings
- Civil writ of execution (repossession/foreclosure)

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Discovery

- Income and assets
- Expenses
 - Basic obligations
 - Rent
 - Utilities (cell, cable)

Civil Remedies A.R.S. §8-350.02 - Juvenile precluded from denying essential allegations of the criminal offense which had been adjudicated including no contest pleas - Can allege civil damages exceeding economic loss and restitution actually paid - Victim cannot recover economic losses twice - Victim can recover general damages, consequential damages and punitive damages - But bankruptcy discharge possible

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Fair Debt Collection Practices Act • Fair Debt Collection Practices Act • Restitution obligations are not "debts"

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